



June 11, 2008

Katharine London, Executive Director
Health Care Quality and Cost Council
2 Boylston Street, 5th floor
Boston, MA 02116

Re: 129 CMR 3.00

Dear Ms. London:

On behalf of the Massachusetts Association of Health Plans (MAHP), which represents 12 health plans that provide health care coverage to approximately 2.3 million Massachusetts residents, I am writing in regard to the proposed Disclosure of Health Care Claims Data regulations 129 CMR 3.00. We believe that the regulations, as proposed strike the appropriate balance between promoting access for the purpose of research and protecting personal health information and guarding against inappropriate utilization of the data.

The Health Care Reform Law (Chapter 58 of the Acts of 2006) charged the Council with the task of collecting health care claims data from Massachusetts carriers. MAHP and its member plans have been strong advocates of transparency and support the Council's mission to collect this data and publish information on health care quality and cost on its consumer website. Without comprehensive and complete data of the true cost drivers, efforts to effectively control health care costs may be misplaced; we therefore look forward to the launch of the Council's website later this summer.

The data set collected by the Council will represent the most comprehensive data set in the Commonwealth and provide an exceptional tool to researchers and policymakers in developing interventions to improve the quality and lower the costs of the health care delivery system in the state. These regulations mark the next step in the process.

While we recognize the importance of providing access to the claims data for the purpose of research and analysis, it is critical that the Council put in place appropriate protections to ensure appropriate use of the data. We believe that the regulations, as proposed are consistent with the requirements set forth in the Health Insurance Portability and Accountability Act (HIPAA) by protecting personal health information and imposing restrictions around the release of data that could identify individuals by their medical information.

We also support the provisions in the regulations that guard against utilization of the data for the purpose of anti-competitive behavior. Competition in the health care market is an important tool for stimulating innovative strategies to control costs, improve quality and provide consumer

choice. Collusion and other anti-trust violations run counter to these goals and lead to higher prices, borne by consumers. It is therefore important to include strong provisions that protect consumers from such inappropriate use of the data.

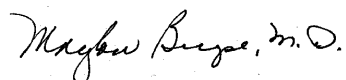
The proposed regulations create a review process with which applicants must comply in order to obtain access to restricted data. The Data Release Review Board, as established in the regulations, is charged with reviewing each request and approving applications that met the stated criteria. Applicants must also comply with Data Disclosure Restrictions as contained in the regulations. While the regulations set forth both a stringent process to obtain access to data, and list of restrictions, the regulations do not contain any enforcement mechanisms to ensure compliance or to penalize offenders.

We understand that the Council does not currently have the statutory authority to issue fines or other penalties for violation of these regulations; however without effective enforcement provisions, it could be difficult to ensure compliance with data use restrictions. We therefore strongly urge the Council to seek out the means to enforce the provisions of 129 CMR 3.00. We respectfully recommend that the HCQCC include in its regulations a statement that upon violations of the regulatory provisions, the HCQCC will notify the Attorney General's Office, which will in turn carry out enforcement actions as necessary.

Finally, as the Commonwealth continues to explore ways to control rising health care costs, it is important to take a close look at some of the requirements that may serve to increase administrative complexity and costs. Currently, several state agencies require data submissions from health plans and providers that are often duplicative of each other. Complying with multiple data requests requires time and resources for both the entities providing the data and the agencies receiving the data. The Council is in the process of collecting a comprehensive claims data set that could serve to meet many, if not all, of the data needs of state agencies. We strongly encourage the Council, as it develops its process for data sharing to consider how it will facilitate access to the data by other state agencies. Eliminating multiple and duplicative reporting requirements will help to reduce administrative costs for both the state and health plans and providers.

Controlling the rising cost of health care is critical to the overall success of the Health Care Reform Law. MAHP strongly supports the mission and goals of the Council to improve health care quality and reduce the costs of care. We again applaud the efforts of the Council and would like to express our appreciation for the opportunity to share our feedback regarding these proposed regulations. If you have any questions or need additional information, do not hesitate to contact me at 617-338-2244.

Sincerely,

A handwritten signature in black ink, reading "Marylou Buyse, M.D." in a cursive script.

Marylou Buyse, MD
President and CEO